

REMARKS

Amendments to claims 1, 23, 30, 56, and 75 are for the purpose of clarifying what Applicant regards as the invention. No new matter has been added.

I. **Claim Rejections under 35 U.S.C. § 101**

Claims 1, 10-12, 15, 17-19, 23, 27-32, 54-56, 66-67, 75, and 80-85 stand rejected under 35 U.S.C. § 101.

Independent claims 1, 23, and 30 have been amended to recite storing the one or more images. Claim 56 has been amended to recite storing the binned image data. Claim 75 has been amended to recite storing the sorted image data. Applicant respectfully submits that since the act of storing data results in a physical transformation, the amended claims 1, 23, 30, 56, and 75, and their respective dependent claims, are believed to satisfy § 101.

With respect to independent claim 15 and its dependent claims, Applicant respectfully notes that these claims contain means-plus-function limitations, which according to 35 U.S.C. § 112, paragraph 6, refer to the corresponding structures described in the specification that perform the recited functions. Thus, Applicant respectfully submits that these claims satisfy § 101, and request that the § 101 rejection be withdrawn.

II. **Claim Rejections under 35 U.S.C. § 102**

Claims 1, 10-12, 15, 17-19, 23, 27-32, 53-56, 66-67, 75, and 80-85 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by US 5997883 (Epstein). Applicant respectfully notes that in order to sustain a claim rejection under § 102, each of the claimed elements must be found, either expressly or inherently, in the cited reference.

Claims 1, 15, and 23

Claim 1 recites collecting data samples representative of a *motion* of an object (Emphasis Added). Claims 15 and 23 recite similar limitations. Epstein does not disclose or suggest such limitations. According to the Office Action, figure 1 and column 2, lines 49-55 of Epstein allegedly disclose the above limitations. However, the cited passages of Epstein actually disclose, *inter alia*:

Multiple phases of the cardiac cycle can be visualized by repeated acquisition of the same *k-space segment* within each R-R interval but *assigning the data* acquired at different time points in the cardiac cycle to different cardiac phases. (Emphasis Added)

Thus, the cited passages disclose acquiring k-space segments (which are themselves cardiac MR images – see c1:48-58), and assigning the image data to different cardiac phases. There is nothing in the cited passages of Epstein that discloses or suggests collecting *data samples that represent a motion* of an object. Also, Applicant respectfully notes that the claims recite both data samples and image data. Thus, the image data (the k-space segment) of Epstein cannot be analogized as the claimed data samples that represent a motion. For at least the foregoing reasons, claims 1, 15, and 23, and their respective dependent claims, are believed allowable over Epstein.

Claims 30, 56 and 75

Claim 30 has been amended to recite associating the image data with one or more phases of a *motion that is controllable by a patient* (Emphasis Added). Claim 56 has been amended to recite binning the image data based on a characteristic of a motion of the object, *wherein the motion is controllable by a patient* (Emphasis Added). Claim 75 has been amended to recite sorting the image data based on a portion of a cycle of a motion of the object at which the image

data are acquired, *wherein the motion is controllable by a patient* (Emphasis Added). Epstein does not disclose or suggest such limitations. Rather Epstein discloses assigning data acquired at different time points in a cardiac cycle to different cardiac phases (c2:49-53). Thus, Epstein specifically deals with motion of a heart, which beats by itself and is therefore not controllable by a patient, as described in the claims. For at least the foregoing reasons, claims 30, 56, and 75, and their respective dependent claims, are believed allowable over Epstein.

CONCLUSION

If the Examiner has any questions or comments, please contact the undersigned at the number listed below.

To the extent that any arguments and disclaimers were presented to distinguish prior art, or for other reasons substantially related to patentability, during the prosecution of any and all parent and related application(s)/patent(s), Applicant(s) hereby explicitly retracts and rescinds any and all such arguments and disclaimers, and respectfully requests that the Examiner re-visit the prior art that such arguments and disclaimers were made to avoid.

The Commissioner is authorized to charge any fees due in connection with the filing of this document to Vista IP Law Group's Deposit Account No. **50-1105**, referencing billing number **VM 03-035-US**. The Commissioner is authorized to credit any overpayment or to charge any underpayment to Vista IP Law Group's Deposit Account No. **50-1105**, referencing billing number **VM 03-035-US**.

Respectfully submitted,

DATE: November 19, 2008

By: _____

Gerald Chan
Registration No. 51,541

VISTA IP LAW GROUP, LLP
1885 Lundy Ave., Suite 108
San Jose, California 95131
Telephone: (408) 321-8663 (Ext. 203)
Facsimile: (408) 877-1662